

NPDES Construction Stormwater Permits-Transferring, modifying, subdividing and terminating coverage

All construction activity that disturbs one or more acres of land must be covered under the National Pollutant Discharge Elimination System (NPDES) construction stormwater permit. During construction, it is important that the correct permittees are listed on the permit. Both the owner of the project and operator must be listed as permittees. It is common for the ownership (or contractor) to change throughout the project. For example, a land developer may construct and prepare residential lots before selling an individual lot to someone who will perform the home construction. In this situation, NPDES permit coverage must be transferred to the homebuilder. The change in ownership may be for a portion of the project as just described or it may encompass the entire project. This guidance will assist permittees in using the correct form to ensure the correct individuals are listed as active permittees.

All construction stormwater permits must be terminated once the project is complete and the site has been stabilized with vegetation or other means to minimize erosion. This includes projects where permit coverage was transferred from an existing permit.

If permittees need to modify the data provided during the application process, the permit modification change form should be used.

There are four forms used for these processes:

- Permit Modification Change form - This form is used to modify the information provided on the original application.
- Subdivision Registration - Use this form to transfer permit coverage on a **portion** of site already covered by the permit.
- Transfer Form - Use this form to transfer permit coverage for an **entire** site to a new owner (or contractor).
- Notice of Termination - Use this form to terminate permit coverage.

There are no fees associated with these processes. You may either e-mail a signed and scanned PDF copy of the form to csw.pca@state.mn.us or you may mail a hard copy to:

Construction Stormwater Permit Program

Minnesota Pollution Control Agency
520 Lafayette Road North
St. Paul, Minnesota 55155-4194

About the permit identification numbers:

Initially permittees obtain coverage using the online application and each permit is assigned a number formatted like this: "C00012345". If a permit is later transferred in whole (transfer form), the number will remain the same. If a permit is transferred in part (subdivision registration form), those portions are assigned a new number formatted like this: "SUB0012345". In this scenario, the original permit is considered the "parent" permit. You can search for all existing permits on the Minnesota Pollution Control Agency (MPCA) construction stormwater permit Search website: <http://cf.pca.state.mn.us/water/stormwater/csw/search.cfm>.

Who should be listed as permittees?

It is important that the correct individuals or businesses are listed as permittees on the permit. Both the owner and operator (usually the general contractor) are required to obtain permit coverage for construction activity and are considered co-permittees. These entities are defined in the permit as:

Owner - means the person, firm, governmental agency, or other entity possessing the title of the land on which the construction activities will occur or, if the construction activity is for a lease, easement, or mineral rights license holder, the party or individual identified as the lease, easement or mineral rights license holder; or the contracting governmental agency responsible for the construction activity.

Operator - means the person (usually the general contractor), firm, governmental agency, or other entity designated by the owner who has day-to-day operational control and/or the ability to modify project plans and specifications related to the stormwater pollution prevention plan (SWPPP). The permit application must list the operator as a permittee. Subcontractors hired by and under supervision of the general contractor are not operators.

General Contractor - means the party who signs the construction contract with the owner to construct the entire project described in the final plans and specifications. Where the construction project involves more than one contractor, the general contractor is the party responsible for managing the entire project on behalf of the owner. In some cases, the owner is the general contractor. In these cases, the owner signs the permit application as the operator and becomes the sole permittee.

Any time there is a change in ownership or operator for an entire site or a portion of a site, the permit responsibilities must be transferred to the new parties using one of the forms. As a result, permit coverage is extended to the new owner and/or operator and terminates coverage of the former owner and/or operator. The new Permittees then become responsible for the terms of the permit. This ensures that the proper entities are responsible for the permit requirements at any given time, on any given portion of a site.

Permit transfer form

Use this section if you are buying or selling an entire site that already has permit coverage or a change in contractor is occurring. If a permit is transferred using this form, the permit number will remain the same.

If any of the parties are unwilling or unavailable (e.g. out of business or cannot be located) to sign the form, the other parties must submit the form with the information. This allows both parties the opportunity to be in compliance by completing the section they are responsible for and submitting it to the MPCA.

Other uses for the permit transfer processes

It is common for owners to want to apply for permit coverage before a contractor has been determined. This can be accomplished by the owner signing both the owner and contractor section of the application. After the contractor has been determined, the owner can use this form to transfer the contractor responsibility to the new party.

It is also common for a contractor to finish all of the construction activity they intend to do while other construction activity is occurring on other areas of the site. For example, a contractor may be hired to perform mass grading, utility, and road construction with the intention that lots will be sold to builders for home construction. Many contractors want to end their permit responsibilities, as they will no longer be active at the site. This form can be used to transfer the contractor responsibility back to the owner. The permit allows this to occur, however, this is not a requirement and transfers of this nature should be agreed upon by the owner and contractor in writing prior to construction.

Change of coverage is not limited to residential development. Although less common, there may be a situation in which a commercial development should have the permit responsibility transferred to another entity. For example, a business may hire a contractor to prepare a site and install utilities. Upon completion of that work, the business hires a new contractor to build the structure. Although the owner remains the same throughout,

the responsibility of the original contractor should be transferred to the new contractor. Any project, including highway construction, can take advantage of either transfer process.

Subdivision registration form

If a change in ownership or operator occurs on a portion of a site already covered under the permit, the subdivision registration form must be used to transfer the legal responsibility for compliance with the permit to the new entity. In this scenario, a new permit number is generated for the area described on the form and is formatted like this: "SUB0012345". During the time of transfer, it is both the original permit holder and the new builder's responsibility to submit the subdivision registration form to the MPCA. The original owner should complete the form indicating what portion of the site was sold and provide a signature. The original owner then provides a copy to the purchaser to complete their portion of the form, including the signatures. The form is then sent to the MPCA. For the new permittees, this form acts as the application for permit coverage for their portion of the site. For the original permittee, the form acts as a termination for the portion of the site sold. The rest of the site remains under permit coverage with the original owner.

Note that the original owner is responsible for ensuring the sold portion of the site is compliant with the permit by having temporary erosion and sediment controls in place prior to the transfer. Once the site is transferred to the new owner, the new owner becomes responsible for compliance with the permit. The current owner is required to give a copy of the SWPPP to the new owner or new operator to follow.

If any of the parties are unwilling or unavailable (e.g. out of business or cannot be located) to sign the form, the other parties must submit the form with their information. This allows both parties the opportunity to be in compliance by completing the section they are responsible for and submitting it to the MPCA.

Permit modification change form

This form can also be used to change the information provided on the original online application for the project in the event an error was made or for another reason. You are not required to update any of the data that changes during the project; you are only required to provide the data as accurately as possible at the time the initial application is submitted. Note: You are not allowed to substantially change the disturbed area unless it is a minor change that does not alter the scope or general purpose of the original project. For example, if a 40-acre housing development is nearing completion and the developer is now starting the next 40-acre phase, a new permit is required.

Notice of Termination Form

Whether you are the original permittee, or you obtained permit coverage via the transfer/modification form or the subdivision registration form, you must terminate the permit upon completion of the project. In order to terminate the permit, all planned construction activity must be complete and the site must meet all of the [permit requirements for termination](#).

If you are terminating a permit in which subdivision permits were taken out (i.e. you sold portions of the site during the construction process) those subdivisions must be terminated first. The original permit must remain active while the other "SUB" permits are active, even if no construction activity is occurring on those portions of the site still covered under the original permit. If your site consists of lots that are awaiting sale where construction activity will occur in the future, the construction permit must remain active. The status of all permits can be found using the [Construction Stormwater Permit Search tool](#). Please note that if the permit is closed when there is still construction to be completed at the site, a new permit, including the fee, will be required for any party once construction resumes.

For more information

If you have questions about the administrative details of the permit process, go to the MPCA Construction Stormwater website at <https://www.pca.state.mn.us/water/construction-stormwater>, or call the Stormwater Hotline at 651-757-2119 or toll-free at 800-657-3804.